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September 6, 2004

To: Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Attn: Art Unit 2826 - Scott R. Wilson

From: George O. Saile, Reg. No. 19,572

28 Davis Avenue

Poughkeepsie, N. Y., 12603

Subject: | Serial No.: 10/685,873 10/15/03 |

Seiki Ogura et al.

TWIN INSULATOR CHARGE STORAGE DEVICE  
OPERATION AND ITS FABRICATION METHOD

|\_ Art Group: 2826 Scott R. Wilson\_|

RESPONSE TO RESTRICTION REQUIREMENT

This is in response to the Restriction or Election Requirement in the Office Action dated 08/10/04. In that Office Action, restriction was required to one of two stated

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on September 7, 2004.

Stephen B. Ackerman, Reg.# 37761

Signature/Date

  
Sept. 7, 2004

Inventions under 35 U.S.C. 121. The Inventions stated are Group I - Claims 1-34, 48, 51 and 57 to a process, classified in Class 438, subclass 216 and Group II - Claims 35-47, 49, 50, 52-56 and 58-62 to a device, classified in Class 257, subclass 324.

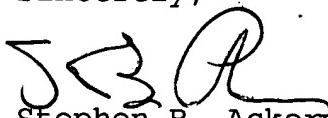
Applicant provisionally elects to be examined the Invention described by the Examiner as Group I - Claims 1-34, 48, 51 and 57 drawn to a process classified in Class 438, subclass 216. This election is made with traverse of the requirement under 37 C.F.R.1.143 for the reasons given in the following paragraphs.

The Examiner is respectfully requested to reconsider the Requirement for Restriction given in the Office Action. The Examiner gives the reason for the distinctness of the two inventions as (1) that the process as claimed can be used to make other and materially different products or (2) that the product as claimed can be made by another and materially different process (MPEP 806.05(f)). However, upon reading the product Claims against the process Claims one can readily see that the product Claims are directed to "a twin MONOS memory" and the process Claims are directed to "a method to fabricate a twin MONOS memory", it is necessary to obtain claims in both the product and method claim language. The method Claims necessarily use the product and vice versa. The field of

search must necessarily cover both the method class/subclass 438/216 and products class 257/324 in addition to other related Classes and subclasses to provide a complete and adequate search. The fields of search for the Group I and Group II inventions are clearly and necessarily co-extensive. The Examiner's suggestion that "In the instant case, instead of patterning to form the layers, they could be formed by selective deposition", is very speculative and really has nothing to do with the Claims as presented in this Patent Application. Further, it is respectfully suggested that these reasons are insufficient to place the additional cost of a second Patent Application upon the Applicants. Therefore, it is respectfully requested that the Examiner withdraw this restriction requirement for these reasons.

Withdrawal of the Restriction Requirement and the Allowance of the present Patent Application is requested.

Sincerely,



Stephen B. Ackerman, Reg.# 37761